



COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

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April 21, 2016

Maia Bellon, Director
Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

ATTN: Water Quality Program
swqs@ecy.wa.gov
Becca Conklin

RE: Comments on Washington Department of Ecology's 2016 Draft Rule for Human Health Criteria and Implementation Tools for State Water Quality Standards

Dear Director Bellon:

The Columbia River Inter-Tribal Fish Commission (CRITFC) thanks you for the opportunity to comment on Washington's draft rule for human health criteria and implementation tools for state water quality standards. CRITFC has worked with the state of Washington and the EPA for many years to develop and adopt regionally consistent water quality standards that will protect the health of tribal people that fish in the Columbia River watershed. Ecology's February 2016 draft rule for human health criteria and implementation tools finally includes a fish consumption rate (FCR) and cancer risk level that is the same as the Oregon rule that was adopted in 2011. CRITFC has urged Ecology to adopt these parameters throughout the rulemaking process and believes that this is a step forward in achieving our goal of a more healthful river system. However, as stewards of the Columbia River fishery, CRITFC can only support the implementation of regulations and programs that improve water quality to a level that is sufficient to protect our watershed from the harmful impacts of waterborne pollutants. Ecology's proposed rule once again falls short of the stated goal of protecting people who consume fish from Washington's waters and should be revised.

EPA's proposed rule for Washington "Revision of Certain Water Quality Criteria Applicable to the State of Washington" that was issued in September 2015 specifically includes the safe harvest of treaty-reserved resources as a designated use in regulating water quality in Washington. EPA's rule uses a FCR of 175 grams per day, a cancer risk level of 1 in 1,000,000, and other parameters from the 2015 304(a) human health recommended criteria update¹. In contrast, Ecology has chosen to adopt only some of the revised national 304(a) criteria and

¹ U.S. Environmental Protection Agency, Final Updated Ambient Water Quality Criteria for the Protection of Human Health. FR Doc. 2015-15912 (June 29, 2015), EPA-HQ-OW-2014-0135-0155.

recommendations, generally to the detriment of the protectiveness of the standards. In working towards the achievement of regionally consistent water quality standards, EPA's September 2015 proposed rule for Washington sets a new level for water quality standards for the region that combines the currently best available science with local knowledge about the use of the region's water and fishery resources. CRITFC's member tribes hold treaty-secured and federally recognized tribal fishing rights that must be protected by the water quality regulations in Washington and all states in the watershed.

Additionally, Ecology has proposed to retain the 1992 National Toxics Rule criterion of 0.00017 µg/L for total PCBs. PCBs are bioaccumulative carcinogens that threaten the treaty-reserved resources of CRITFC's member tribes. Substantial portions of the Columbia River are currently under fish consumption advisories because of this contaminant and clearly the state's current water quality standards are not sufficient to protect the uses of these waters for fishing. Retaining the status quo for the state's water quality standards for PCBs does not serve to reduce pollution in the waters that we share and will never drive the technological development needed to reduce pollutant discharges.

CRITFC's member tribes also believe that Washington's final rule should quantitatively specify requirements for how Washington will "maintain a level of water quality when entering downstream waters" and who will be responsible for the inadequacies of upstream standards. Washington shares waters with Oregon and with tribes that currently have or are working to have water quality standards that are more protective than Washington's proposed rule. The narrative in the proposed rule is not sufficient to assure the attainment of downstream standards either with Oregon's or those of the tribes. Downstream protection and regional consistency in water quality standards is a high priority for our member tribes and is supported by Resolutions #13-44 and #12-54 of the Affiliated Tribes of Northwest Indians that call for regional consistency in water quality standards.

Finally, CRITFC hereby, supports, adopts, and incorporates by reference the complete Northwest Indian Fisheries Commission comments submitted to Ecology in April, 2016. CRITFC fully supports the principal goal of the Clean Water Act to eliminate pollution from our Nation's waters and believes in a future where the Columbia River fishery is once again free of harmful contaminants. Thank you for considering our comments during this rulemaking. If you have any further questions please contact me or Dianne Barton, Water Quality Coordinator at 503-238-0667.

Sincerely,

A handwritten signature in blue ink, appearing to read "Babtist P. Lumley".

Babtist Paul Lumley
Executive Director

Cc: Dennis McLerran, EPA Region 10 Administrator
Dan Opalski, EPA Region 10 Director for the Office of Water and Watersheds